

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 769

IN THE MATTER OF:

Served January 10, 1968

W. V. & M. Coach Company, Inc.)
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Scenic Coach Rental, Inc.)

Formal Complaint No. 20

On December 6, 1967, the Commission issued Order No. 762, which denied a motion of W. V. & M. Coach Company, Inc., complainant in the above entitled proceeding, seeking an order authorizing it to take certain specified depositions.

By application, filed December 27, 1967, W. V. & M. seeks reconsideration of Order No. 762, and in support thereof sets forth two grounds: (1) That the Commission's action is contrary to Rule 26 of the Federal Rules of Civil Procedure; (2) That the Commission's action precludes W. V. & M. from further prosecuting its complaint.

The grounds relied upon by W. V. & M. are without merit and, in our opinion, the application should be denied.

W. V. & M.'s reliance upon the Federal Rules of Civil Procedure makes little sense to us. Those Rules relate to practice before the Federal District Court. They have no application to practice before administrative agencies. The Federal Rules of Civil Procedure are not applicable to proceedings before this agency.

Rule 19-01 of the Rules of Practice and Procedure of the Commission specifically provides for the taking of depositions upon certain stated conditions; its basic purpose is to adduce the testimony of a witness whose presence at a hearing

is not attainable. Previous Commission rulings clearly state that depositions are not appropriate vehicles for discovery expeditions. Detecting that this was the purpose of W.V. & M.'s motion, the Commission acted correctly in denying movant's request. Now, ground No. 2 advanced by W. V. & M. more clearly exposes its request as a discovery expedition of the most blatant form and soundly reinforces our prior decision. It is, of course, incumbent upon a complainant to prove its case, and it is natural to assume, as the Commission must do, that a case is factually established at the time the complaint is filed.

In any event, Order 762 clearly reveals that the Commission's main reason in denying W. V. & M.'s motion was not that it constituted a discovery expedition but rather that it failed to comply with certain stated prerequisites; we stated therein:

~~Rule 19-01 of the Rules of Practice and Procedure~~
of the Commission states that depositions are permissible when it appears that the prospective deponent, for good cause shown, is or will be unable to testify before the Commission. Complainant's motion contains no allegations to this effect. . .

In this respect, W. V. & M.'s application for reconsideration is silent. Consequently, the instant application contains no information whatsoever on which we could possibly reach a different decision.

THEREFORE, IT IS ORDERED that the application of W. V. & M. Coach Company for reconsideration of Order No. 762 be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:



MELVIN E. LEWIS
Executive Director